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11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA
13 OAKLAND DIVISION

14
15 IN RE: SOCIAL MEDIA ADOLESCENT
16 ADDICTION/PERSONAL INJURY
PRODUCTS LIABILITY LITIGATION

17 This Document Relates To:
18 ALL ACTIONS

MDL No. 3047

Case No.: 4:22-md-03047-YGR

THE PEOPLE OF THE STATE OF
CALIFORNIA'S OPPOSITION TO
TIKTOK DEFENDANTS'
ADMINISTRATIVE MOTION TO
CONSIDER WHETHER CASES
SHOULD BE RELATED

(*People v. TikTok Inc., et al.*, No. 5:24-cv-07942-EKL)
(*People v. TikTok Inc., et al.*, Superior Court of California, Santa Clara County, Case No.: 24CV449203)

1 This Attorney General enforcement action—brought by a state sovereign in state court,
 2 exclusively under state consumer-protection statutes—has no place in federal court (as the People
 3 have already moved to remand and sought reasonable attorneys' fees for baseless removal).
 4 Accordingly, TikTok's motion to relate (which amounts to a further delay tactic) should be
 5 denied. In particular, the requirements of Local Rule 3-12 cannot be satisfied here because there
 6 is zero risk of “unduly burdensome duplication of labor and expense or conflicting results” if the
 7 assigned judge (Hon. Eumi K. Lee) resolves this straightforward jurisdictional issue (and
 8 imposition of attorney's fees) in the first instance, which is unrelated to this MDL.

9 Indeed, TikTok's removal strategy appears to be the exact procedural maneuvering that
 10 Judge Chabria warned against—precisely in this context where a litigant is asking a federal court
 11 to “intrude” on state sovereignty and “interfere” with a sovereign's ability to enforce its laws and
 12 protect its citizens in its local courts:

13 [A]lthough federal courts should always be careful before exercising removal jurisdiction,
 14 and should be even more careful when the case has been brought by a state or one of its
 15 officials, the concern is even more pronounced in the context of multidistrict litigation.
 16 When a case is folded into multidistrict litigation, it will almost inevitably be delayed. Its
 17 fate will be bound up in the fates of many others. The transferee judge may decide that
 18 certain claims should be prioritized or addressed first. The plaintiff may thus lose control
 19 over the direction of the lawsuit. And this is a serious concern if the plaintiff is a
 20 government entity or official – the multidistrict litigation process would intrude on state or
 local sovereignty. Therefore, where a case is originally filed in state court to vindicate a
 state's sovereign interests, federal courts should exercise the greatest possible caution before
 asserting jurisdiction. The purpose of the multidistrict litigation process is to make the
 adjudication of federal cases more efficient and fair, not to interfere with the ability of state
 courts to adjudicate claims brought under state law by state or local officials.

21 *In re Facebook, Inc., Consumer Priv. User Profile Litig.*, 354 F. Supp. 3d 1122, 1125 (N.D. Cal.
 22 2019).

23 Accordingly, to prevent intrusion on and interference with California's sovereignty,
 24 unnecessary delay, and expenditure of judicial and party resources, TikTok's motion to relate
 25 should be denied so that the People's motion to remand (and for attorney's fees) (ECF No. 13 in
 26 Case No. 5:24-cv-07942-EKL) can be resolved promptly. There is no reason that the MDL judge,
 27 Hon. Yvonne Gonzales Rogers, as opposed to the assigned judge, Hon. Eumi K. Lee, should

1 resolve this straightforward jurisdictional (and attorney's fees) issue in the first instance.
 2 Transferring the case to MDL 3047 risks only delaying prosecution of the People's action in the
 3 appropriate forum – state court.

4 BACKGROUND & PROCEDURAL HISTORY

5 On October 8, 2024, the California Attorney General brought this state-law enforcement
 6 action in the Superior Court of Santa Clara County against TikTok, on behalf of the People of the
 7 State of California (the People). The People's action raises exclusively state-law claims under
 8 California's False Advertising Law and Unfair Competition Law. ECF No. 7-2, ¶¶ 327-330 in
 9 Case No. 5:24-cv-07942-EKL.¹

10 TikTok filed a Notice of Removal in this Court on November 13, 2024, ECF No. 1 in Case
 11 No. 5:24-cv-07942-EKL, and the next day filed this motion under Local Rule 3-12 styled as
 12 "TikTok Defendants' Administrative Motion to Consider Whether Cases Should Be Related."
 13 MDL 3047 ECF No. 1328. On November 18, 2024, the People filed a Motion to Remand
 14 People's Enforcement Action to State Court and for Just Costs and Actual Expenses. ECF No. 13
 15 in Case No. 5:24-cv-07942-EKL. The People seek \$17,400 in reasonable attorney's fees due to
 16 TikTok's objectively unreasonable removal. *Id.* TikTok now invites further delay of this
 17 sovereign state-law prosecution by entangling it in the MDL. The Court should decline this
 18 invitation.

19 ARGUMENT

20 I. TIKTOK CANNOT ESTABLISH THAT ANY RISK OF DUPLICATION OF LABOR OR 21 CONFLICTING RESULTS APPEARS LIKELY, AS REQUIRED UNDER LOCAL RULE 3-12.

22 Actions are related under Local Rule 3-12 only if "[i]t appears likely that there will be an
 23 unduly burdensome duplication of labor and expense or conflicting results if the cases are
 24 conducted before different Judges." Civ. L.R. 3-12(a)(2) (emphasis added). Because the absence
 25 of federal jurisdiction is self-evident on the face of the People's complaint, and for the numerous

26 ¹ TikTok attached only a redacted version of the People's complaint to the Notice of
 27 Removal, ECF No. 1 to 1-5, and attached only the same redacted complaint to its present motion.
 28 MDL 3047 ECF No. 1328-2. Accordingly, references to the People's complaint herein are to the
 full, unredacted complaint lodged at ECF No. 7-3.

1 reasons set forth in the People's motion to remand, a "duplication of labor" or "conflicting
 2 results" does not "appear[] likely" whatsoever. TikTok marshals up nothing to even suggest
 3 otherwise, and this alone compels denial of TikTok's motion to relate.

4 As explained at length in the People's remand motion, removal here is objectively baseless
 5 warranting imposition of a reasonable attorney-fee award against TikTok. ECF No. 13 in Case
 6 No. 5:24-cv-07942-EKL. That motion contains the *only* outstanding issues (i.e., jurisdiction and
 7 attorney's fees) for this federal court to resolve. Following resolution of that motion, there will be
 8 nothing left for this federal court to do. *See, e.g., Ex parte McCardle*, 74 U.S. 506, 514 (1868)
 9 ("Without jurisdiction the court cannot proceed at all in any cause. Jurisdiction is power to
 10 declare the law, and when it ceases to exist, the only function remaining to the court is that of
 11 announcing the fact and dismissing the cause.").

12 Accordingly, there can be no "duplication of labor" or "conflicting results" if this case
 13 remains with Judge Lee. There are no overlapping issues of fact or law between the MDL on the
 14 one hand, and the determination of jurisdiction (and the People's request for fees) in the removed
 15 action on the other hand. As the requirement under Local Rule 3-12(a)(2) is not met, the motion
 16 to relate must be denied.

17 **II. JUDICIAL ECONOMY ALSO FAVORS RESOLUTION OF JURISDICTION (AND
 18 ATTORNEY'S FEES) BY THE ASSIGNED JUDGE**

19 When motions to remand are simultaneously pending with requests to transfer cases to an
 20 MDL (or motions to stay pending MDL determinations), "[g]enerally, jurisdiction is a
 21 preliminary matter that should be resolved before all others," *Gerber v. Bayer Corp.*, No. C 07-
 22 05918 JSW, 2008 WL 344219, at *1 (N.D. Cal. Feb. 6, 2008) (quoting *Leeson v. Merck & Co., Inc.*, 2006 WL 3230047, *2 (E.D. Cal. Jan. 27, 2006)). This is because "[j]udicial economy will
 23 best be served by addressing the remand issue [before MDL transfer/stay issues] because a
 24 determination on [jurisdiction] will facilitate litigation in the appropriate forum." *Villarreal v. Chrysler Corp.*, 1996 WL 116832, at *1 (N.D. Cal. Mar. 12, 1996). Given that the issue of
 25 jurisdiction (and attorney's fees for improper removal) regarding the People's enforcement action
 26 against TikTok is not something that has been decided in the MDL nor something likely to

1 otherwise be raised in the MDL, judicial economy will best be served by deciding the People's
 2 remand motion first and foremost.

3 In addition, the unreasonable use of the removal mechanism to tie up a state sovereign's
 4 law enforcement action unnecessarily in federal MDL proceedings is well known, and weighs
 5 strongly against relating the People's action to MDL 3047. *See In re Facebook, Inc., Consumer*
 6 *Priv. User Profile Litig.*, 354 F. Supp. 3d 1122, 1125 (N.D. Cal. 2019) (quoted above).

7 **CONCLUSION**

8 For the following reasons, this Court should deny TikTok's various attempts to delay and
 9 disrupt this sovereign state-law enforcement action that belongs in state court, where it was filed
 10 in the first instance.

11 Dated: November 18, 2024

Respectfully submitted,

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